

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE**
3 **MIDDLE DISTRICT OF PENNSYLVANIA**

4 RENEE CAMPBELL,)

5 Plaintiff)

6 v.)

7 NCO FINANCIAL SYSTEMS, INC.,)

8 Defendant)

9 **Case No.:**

10 **COMPLAINT AND DEMAND FOR**
11 **JURY TRIAL**

12 **(Unlawful Debt Collection Practices)**

13 **COMPLAINT**

14 RENEE CAMPBELL ("Plaintiff"), by and through her attorneys, KIMMEL
15 & SILVERMAN, P.C., alleges the following against NCO FINANCIAL
16 SYSTEMS, INC. ("Defendant"):

17 **INTRODUCTION**

18 1. Plaintiff's Complaint is based on the Fair Debt Collection Practices
19 Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA"), which prohibits debt collectors from
20 engaging in abusive, deceptive, and unfair practices.
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JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and 28 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising under the laws of the United States.

3. Defendant conducts business and has its principal office in the Commonwealth of Pennsylvania, and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

PARTIES

5. Plaintiff is a natural person residing in Scranton, Pennsylvania 18504.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

7. Defendant is a national debt collection company with its corporate headquarters located at 507 Prudential Road in Horsham, Pennsylvania, 19044.

8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

1 9. Defendant acted through its agents, employees, officers, members,
2 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
3 representatives, and insurers.
4

5
6 **FACTUAL ALLEGATIONS**

7 10. At all relevant times, Defendant was attempting to collect an alleged
8 consumer debt from Plaintiff.
9

10 11. The alleged debt at issue arose out of transactions, which were
11 primarily for personal, family, or household purposes.

12 12. Beginning in early January 2012, and continuing through March 5,
13 2012, Defendant repeatedly and continuously contacted Plaintiff on her home
14 telephone in an attempt to collect a consumer debt.
15

16 13. Plaintiff received phone calls and voicemail messages from Defendant
17 on a number of occasions from the following phone number: (888) 289-0907,
18 which the undersigned has confirmed is a phone number for Defendant.
19

20 14. Defendant placed repeated calls to Plaintiff's home telephone almost
21 every day, causing Plaintiff to receive, on average, one (1) to two (2) collection
22 calls a day.
23

24 15. Further, when contacting Plaintiff on her home telephone, upon
25 information and belief, Defendant used an automated telephone dialing system and

1 pre-recorded or artificial voice.

2 16. When Plaintiff did not answer Defendant's telephone calls, Defendant
3 would leave message on her home answering machine stating, in part, "This
4 message is for Renee Campbell, if you are not Renee Campbell, please hang up.
5 This is NCO Financial. We are a debt collector attempting to collect a debt. Pleas
6 call back Dan (last name inaudible) at 888-289-0907 and reference ID code no.
7 (inaudible)."
8
9

10 17. In January 2012, Plaintiff spoke with a collector, who identified
11 himself to Plaintiff as "Dan."

12 18. "Dan" did not provide Plaintiff with any information regarding the
13 underlying debt, including the name of the entity to whom the debt was owed
14 and/or the amount of the debt.
15

16 19. As a result, Plaintiff had no idea the amount of money Defendant was
17 seeking to collect or to whom a debt was owed, so Plaintiff informed "Dan" that
18 she disputed the debt.
19

20 20. Plaintiff also told "Dan" that she was unable to make payments on the
21 debt and to stop calling her.
22

23 21. "Dan," however, failed to update Defendant's collection records
24 regarding Plaintiff's instructions to stop calling, and, as a result, Plaintiff
25 continued to receive collection calls from Defendant.

1 22. Within five (5) days after its initial communication with Plaintiff at
2 the beginning of January 2012, Defendant failed to send Plaintiff written
3 notification of her rights to dispute the debt and/or request verification of the debt.
4

5 23. Then, in a subsequent telephone conversation with a male collector
6 for Defendant, the collector threatened Plaintiff that if she did not agree to pay
7 them, that they would garnish her wages.
8

9 24. Plaintiff informed Defendant that she was unemployed and receiving
10 disability.
11

12 25. At the time Defendant threatened to garnish Plaintiff's wages, it did
13 not intend to garnish her wages, as Pennsylvania does not allow an individual's
14 wages to be garnished to pay an outstanding debt.

15 26. Moreover, Defendant could not legally take the action it threatened, as
16 Plaintiff's sole source of income was social security disability, and federal law
17 prohibits debt collectors, like Defendant, from garnishing a person's social
18 security disability income.
19

20 27. Defendant's actions in attempting to collect the alleged debt were
21 harassing, abusive and highly deceptive.
22

23 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**
24 **ACT**
25

1 28. In its actions to collect a disputed debt, Defendant violated the
2 FDCPA in one or more of the following ways:

3
4 **COUNT I**

5 29. Defendant's conduct, as detailed in the preceding paragraphs, violated
6 15 U.S.C. §§1692d and 1692d(5).

7 a. Section 1692d of the FDCPA prohibits debt collectors from
8 engaging in any conduct the natural consequences of which is to
9 harass, oppress or abuse any person in connection with the
10 collection of a debt.

11
12 b. Section 1692d(5) of the FDCPA prohibits debt collectors from
13 causing a telephone to ring or engaging any person in telephone
14 conversation repeatedly or continuously with the intent to annoy,
15 abuse, or harass any person at the called number.

16
17 c. Defendant violated §§1692d, and 1692d(5) of the FDCPA when it
18 caused Plaintiff's telephone to ring almost everyday, calling at
19 least one (1) to two (2) times each day, with the intent to annoy,
20 abuse and harass Plaintiff.

21
22 d. Also, Defendant §1692d of the FDCPA when it continued to
23 contact Plaintiff regarding a debt, despite knowing that Defendant
24 did not want to be contacted, with the intent to annoy, abuse and
25

1 harass Plaintiff.

2 **COUNT II**

3
4 30. Defendant's conduct, detailed in the preceding paragraphs, violated 15
5 U.S.C. §§1692e and 1692e(4).

6 a. Section 1692e of the FDCPA prohibits a debt collector from using
7 any false, deceptive, or misleading representations or means in
8 connection with the collection of a debt.

9
10 b. Section 1692e(4) of the FDCPA prohibits a debt collector from
11 representing or implicating that nonpayment of any debt will result
12 in the arrest or imprisonment of any person or the seizure,
13 garnishment, attachment, or sale of any property or wages of any
14 person unless such action is lawful and the debt collector or
15 creditor intends to take such action.

16
17 c. Here, Defendant violated §§1692e and 1692e(4) of the FDCPA by
18 threatening to garnish Plaintiff's wages, when legally it was unable
19 to take the action it threatened, as Pennsylvania does not permit
20 wage garnishment for debts and federal law does not allow social
21 security wages to be garnished to pay a debt.
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23

24 **COUNT III**

25 31. Defendant's conduct, detailed in the preceding paragraphs,

1 violated 15 U.S.C. §1692f.

2 a. Section 1692f of the FDCPA prohibits a debt collector from using
3 unfair or unconscionable means to collect or attempt to collect any
4 debt.
5

6 b. Defendant violated §1692f of the FDCPA when it failed to disclose
7 to Plaintiff information about the alleged debt, including the name
8 of the creditor and the amount of the debt.
9

10 **COUNT IV**

11 32. Defendant's conduct, detailed in the preceding paragraphs,
12 violated 15 U.S.C. §1692g.
13

14 a. A debt collector violates §1692g(a) of the FDCPA by failing to
15 send to the consumer, within five days after its initial
16 communication with a consumer in connection with the collection
17 of a debt, a written notice containing: (1) the amount of the debt;
18 (2) the name of the creditor to whom the debt is owed; (3) a
19 statement that unless the consumer, within thirty days after receipt
20 of the notice, disputes the validity of the debt, or any portion
21 thereof, the debt will be assumed to be valid by the debt collector;
22 (4) a statement that if the consumer notifies the debt collector in
23 writing within the thirty-day period that the debt, or any portion
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25

1 thereof, is disputed, the debt collector will obtain verification of
2 the debt or a copy of a judgment against the consumer and a copy
3 of such verification or judgment will be mailed to the consumer by
4 the debt collector; and (5) a statement that, upon the consumer's
5 written request within the thirty-day period, the debt collector will
6 provide the consumer with the name and address of the original
7 creditor, if different from the current creditor.
8

- 9
- 10 b. Here, Defendant violated §1692g of the FDCPA by failing to send
11 written notification, within five (5) days after its initial
12 communication with Plaintiff, advising Plaintiff of her rights to
13 dispute the debt or request verification of the debt or providing him
14 with the name of the original creditor and the amount of the debt.
15

16

17 WHEREFORE, Plaintiff, RENEE CAMBELL, respectfully prays for a
18 judgment as follows:

- 19
- 20 a. All actual compensatory damages suffered pursuant to 15
21 U.S.C. §1692k(a)(1);
- 22 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
23 pursuant to 15 U.S.C. §1692k(a)(2)(A);
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25

- 1 c. All reasonable attorneys' fees, witness fees, court costs and
2 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
3 §1693k(a)(3); and
4
5 d. Any other relief deemed appropriate by this Honorable Court.
6

7 **DEMAND FOR JURY TRIAL**

8 PLEASE TAKE NOTICE that Plaintiff, RENEE CAMPBELL, demands a
9 jury trial in this case.
10

11
12
13 DATED: 03/29/12

14 RESPECTFULLY SUBMITTED,

15 KIMMEL & SILVERMAN, P.C.

16 By: 

17 CRAIG THOR KIMMEL

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